

THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA	§	
	§	
vs.	§	CRIMINAL NO. 4:17CR83
	§	
JERRY LYNN COLEMAN (1)	§	

**REPORT AND RECOMMENDATION ON
DEFENDANT'S COMPETENCY TO STAND TRIAL**

Pursuant to 28 U.S.C. § 636(b) and the Local Rules for the United States District Court for the Eastern District of Texas, this criminal proceeding is before the undersigned United States Magistrate Judge.

On November 13, 2017, Defendant's counsel filed a Motion for Psychological and/or Psychiatric Examination [Dkt. 16] seeking a psychiatric examination, pursuant to 18 U.S.C. §§ 4241 at an appropriate Bureau of Prisons facility, and that a psychiatric report of findings be filed with the Court consistent with 18 U.S.C. §§ 4247(b). The Court granted that motion on November 15, 2017 [Dkt. 20]. Defendant was subsequently evaluated by Dr. Lisa Bellah [Dkt. 24, Sealed]. The Court has received the report from the Bureau of Prisons, and copies have been furnished to the Assistant United States Attorney and both present and prior defense counsel. Dr. Bellah's report concludes, Defendant "was able to demonstrate at least a basic understanding of his charges and potential consequences of his charges. He is also able to assist in his defense should he choose to do so. It, is the opinion of this examiner that Mr. Coleman is competent[] to proceed with his legal case at this time."

A competency hearing was conducted on February 28, 2018, before U.S. Magistrate Judge Christine A. Nowak, where the report was admitted. At the hearing, Defendant appeared in court with his then-counsel, Frank Henderson. Defendant was given the opportunity to present evidence

and call witnesses. Defendant did not offer any witnesses or evidence. Also, on February 28, 2018, Defendant requested new counsel be appointed. On March 2, 2018, Mr. Frank Henderson was discharged from further representation of Defendant; Mr. Gabriel Reyes was appointed to assume representation of Defendant.

On July 13, 2018, the Government and Defense counsel jointly filed their Waiver of Time to File Objections to the Report and Recommendation of the Magistrate Judge [Dkt. 52]. Therein, Defense counsel, Mr. Reyes, having had an opportunity to meet with his client, represents that he believes his client is competent to stand trial. Defendant presents no objections to the report, including Dr. Bellah's opinion on competency. The Government also did not object to the report findings. The Parties agree to the Court proceeding to enter a Report and Recommendation to the District Judge related to Defendant's competency.

Accordingly, the undersigned, having considered the report, concludes that Defendant is not mentally incompetent and is able to understand the nature and consequences of the proceedings against him and to assist properly in his defense. Defendant has a rational and factual understanding of the proceedings against him, and has sufficient present ability to consult with his attorney with a reasonable degree of rational understanding. 18 U.S.C. §4241(d); *see also Dusky v. United States*, 362 U.S. 402 (1960).

RECOMMENDATION

For the foregoing reasons, the Court recommends that Defendant be found competent to stand trial because he understands the nature and consequences of the proceedings against him and is able to assist in his defense. See 18 U.S.C. § 4241.

Both Parties waived the fourteen (14) day objection period.

SIGNED this 16th day of July, 2018.



Christine A. Nowak
UNITED STATES MAGISTRATE JUDGE